



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

23 June 2004

MEMORANDUM FOR DISTRIBUTION

Subj: EMPLOYMENT OF ANNUITANTS

Encl: (1) Under Secretary of Defense Memorandum of
March 18, 2004
(2) Policy for Appointment of Reemployed Annuitants

The Department of Defense (DoD) has provided final policy and procedures for hiring annuitants under the provisions of 5 U.S.C. 9902(j) allowing newly appointed employees receiving an annuity from the Civil Service Retirement and Disability Fund to receive full salary and annuity benefits.

Enclosure (1) delegated the authority to employ annuitants in compliance with DoD's guidance and procedures. For an interim period of time, as detailed in enclosure (2), the authority to appoint annuitants at grades 15 and below (and equivalent) within the Department of the Navy (DON) is redelegated to the Director, Office of Civilian Human Resources (OCHR). To ensure appointments are administered consistently across the DON and due to the anticipated level of intensity with which this program may be monitored, requests for approval to appoint annuitants or extend an existing reemployed annuitant's appointment must be addressed, on a case-by-case basis, by completing and submitting the request form provided with enclosure (2) to OCHR, Code 011.

The Secretary of the Navy may appoint an annuitant to an executive-level position (i.e., Senior Executive Service, Scientific and Professional, Senior-Level, and pay band positions above the GS-15 level) in accordance with enclosure (1). This authority is not further delegated. Requests for approval to appoint an annuitant to an executive-level position must be addressed to the Secretary of the Navy via OCHR, Code 013. The DON policy to employ annuitants will be incorporated into a succeeding Civilian Human Resources Subchapter.

Questions regarding this authority and reporting requirements should be directed to Ms. Amy Knapp, who may be reached at (360) 315-8121 or DSN 322-8121.

A handwritten signature in black ink, appearing to read "W. Navas, Jr.", with a stylized flourish at the end.

William A. Navas, Jr.
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

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PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

MAR 18 2004



MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
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SUBJECT: Employment of Annuitants

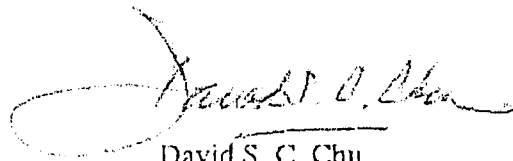
Section 9902 of title 5 United States Code (U.S.C.), as enacted by section 1101 of the National Defense Authorization Act for Fiscal Year 2004, Pub.L. 108-136, 117 Stat. 1392, 1629 (November 24, 2003), provides the Department of Defense with critical flexibilities to attract, develop and maintain an agile civilian workforce to meet the challenges of the 21st century. This new legislation provides the Department with the ability to attract and retain talented men and women with the expertise and corporate knowledge to fill critical positions or to temporarily mentor the next generation of civil servants. This critical hiring flexibility will help address the challenges of "retirement-driven talent drain" as our current generation of dedicated civil servants become eligible to retire.

The Secretaries of the Military Departments, and heads of Defense Agencies and DoD Field Activities with independent appointing authority for themselves and their serviced organizations are hereby redelegated the authority delegated to me by Deputy Secretary of Defense memorandum, dated February 19, 2004, to hire and compensate annuitants consistent with the attached policy. These designees will further delegate this authority to managers and supervisors for the appointment of annuitants at grades 15 and below (and equivalent).



Enclosure (1)

The attached guidance implements DoD policy and procedures for hiring annuitants under the provisions of 5 U.S.C. 9902(j) allowing newly appointed employees receiving an annuity from the Civil Service Retirement and Disability Fund to receive full salary and annuity benefits.

A handwritten signature in dark ink, appearing to read "David S. C. Chu", is written over a horizontal line.

David S. C. Chu

Attachment:

As stated

Department of Defense
Recruitment of Annuitants
Guidance and Procedures

A. General Information

1. Section 1101 of the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108-136, 117 Stat. 1392, 1629 (November 24, 2003), amends title 5, United States Code (U.S.C.), by adding a new Chapter 99 entitled Department of Defense (DoD) National Security Personnel System (NSPS).
2. Section 9902(j) of title 5, U.S.C., gives the Secretary of Defense authority to hire and set the salary of newly appointed annuitants, i.e., individuals receiving an annuity from the Civil Service Retirement and Disability Fund, at the appropriate pay rate for the position without a reduction in pay or of the annuity. As a result, the salary of the annuitant is not offset by the amount of the annuity received for the period of employment. There is no retroactive application of the new authority.
3. This guidance implements the new Secretary of Defense authority for the employment of annuitants in the Department of Defense and establishes criteria for its use.
4. This guidance applies to annuitants employed in appropriated fund positions on or after November 24, 2003.
5. An annuitant may not be employed in the same position held prior to retirement, except as provided by policy contained in this guidance.
6. Designees.
 - a. **Executive-Level Positions.** Secretaries of the Military Departments and heads of Defense Agencies and DoD Field Activities with independent appointing authority for themselves and their serviced organizations may appoint an annuitant to an executive-level position (i.e., Senior Executive Service (SES), Scientific and Professional (ST), Senior-Level (SL), Defense Intelligence Senior Executive Service (DISES), Defense Intelligence Senior Level (DISL), and pay band positions above the GS-15 level) in accordance with this guidance. This authority may not be further delegated.

- b. Positions at Grades 15 and Below. Secretaries of the Military Departments and heads of Defense Agencies, and DoD Field Activities with independent appointing authority for themselves and their serviced organizations may appoint annuitants at grades 15 and below (and equivalent) without a reduction in pay. These designees will redelegate this authority to managers and supervisors for use in accordance with this guidance.
7. These positions may be filled on a time-limited or indefinite basis depending on the individual circumstances. The rationale for hiring should be a factor in determining the type of appointment. For example, a time-limited appointment would be most appropriate to fill a position where there is a critical need resulting from an unforeseen circumstance of an anticipated short duration. An indefinite appointment may be more appropriate to fill a continuing position when there is a severe shortage of candidates and the organization has historically had difficulty in recruiting after extensive recruitment efforts.
 8. The provisions of 5 U.S.C. 9902(j) apply to new appointments or conversions to new appointments made on or after November 24, 2003. Annuitants hired prior to November 24, 2003, who are currently serving in a position and receiving full salary and annuity based on an exception approved by the Office of Personnel Management (OPM) or by DoD under delegated authority, will continue to receive full salary and annuity for the time specified by the waiver. An example of an exception approved by DoD includes a waiver granted with respect to a former Federal employee hired under 9-11 emergency hiring flexibilities.
 9. Annuitants hired before November 24, 2003, and subject to salary offset may continue to serve in their positions in accordance with the provisions of their appointment. However, these annuitants will continue to have their salary offset by the amount of the annuity received for the period of employment. When a position encumbered by such annuitant becomes vacant, the position must meet DoD established criteria below to be refilled by an annuitant under the policy contained herein.
 10. An employee who separated under authority of the Voluntary Separation Incentive Pay (VSIP) Program is prohibited from reemployment within the Department for 12 months after separation unless the Secretary of Defense or his designee approves a waiver on a case-by-case basis. An employee may not be reemployed within 5 years unless he/she repays the separation incentive. Reemployment restrictions are specified in 5 U.S.C. 9902(i) of NSPS and implementing DoD VSIP guidance and procedures.

11. An annuitant hired under this policy serves at the will of the appointing authority.

B. Employment of Annuitants

1. Designees may elect to reemploy annuitants, subject to the following criteria:
 - a. In positions that are hard-to-fill as evidenced by historically high turnover, a severe shortage of candidates or other significant recruiting difficulty; or positions that are critical to the accomplishment of the organization's mission; or to complete a specific project or initiative;
 - b. Who have unique or specialized skills, or unusual qualifications not generally available; or
 - c. For not more than 2087 hours (e.g., one year full time, or two years part time) to mentor less experienced employees and/or to provide continuity during critical organizational transitions. Extensions beyond 2087 hours are not authorized.
2. If a supervisor or manager who is delegated authority to appoint annuitants to positions at Grades 15 or below elects to reemploy an annuitant in the same organization in the same (or substantially similar) position as the position from which the annuitant retired, the action must have prior approval from next level supervisor. The next level manager or supervisor must certify in writing that one or more of the above conditions exist. If the time between retirement and reemployment is brief (less than 90 days), the certification must also indicate that retention options (e.g., retention allowance, flexible work schedule, telework) were considered and offered before the employee retired. Designees, as identified in paragraph A.6.a., must execute the required certification when appointing annuitants to executive-level positions, as defined in such paragraph.

C. Procedures Applying to All Positions Filled with Annuitants

1. The provisions of the DoD Priority Placement Program apply.
2. The provisions of the Interagency Career Transition Assistance Plan for Displaced Employees and the DoD Reemployment Priority List apply, as appropriate.

3. Organizations will make appointments of annuitants in accordance with the provisions of the particular type of appointment action being taken, e.g., reinstatement or temporary appointment based on reinstatement, as specified in the OPM Guide to Processing Personnel Actions.
4. Organizations will use the appropriate annuity indicator that reflects the annuitant is not subject to salary reduction, e.g., annuitant indicator G or 6.
5. The Defense Civilian Personnel Data System (DCPDS) currently contains the functionality required to appoint reemployed annuitants. These appointments will be tracked in DCPDS by data element, to include the reason for the appointment of the annuitant.
6. Notification of the appointment to OPM is required for appropriate processing of an annuitant's benefits resulting from reemployment. Notification is provided by forwarding to OPM a copy of the "Notification of Reemployment of an Annuitant" or other appropriate form and a copy of Standard Form 50, "Notification of Personnel Action."

D. Documentation

1. Organizations must document the basis and criteria for employment of annuitants on the Standard Form (SF) 52, Request for Personnel Action. Components will retain documentation for two years after employment is terminated.
2. The certification from the approval official required in B2 above must be attached to the SF-52.

E. Reporting Requirements

The Deputy Under Secretary of Defense (Civilian Personnel Policy) will monitor the effective use of this appointment authority and may establish reporting requirements, as necessary. DCPDS will be used to obtain information on the employment of annuitants to assist in meeting any reporting requirements.

F. Accountability

Managers and supervisors throughout the Department are responsible for the appropriate use of this authority to support mission requirements. Designees are accountable for the use and oversight of this authority. The authority may not be used solely to benefit employees or retirees.

DEPARTMENT OF THE NAVY POLICY FOR APPOINTMENT OF REEMPLOYED ANNUITANTS

Reference: (a) Under Secretary of Defense Memorandum dated March 18, 2004

Attachments: (1) Department of the Navy (DON) Employment of Annuitant Q & A
(2) Employment of Annuitant Request Form

1. Purpose

- a. This establishes policy and assigns responsibility for the authority to appoint or extend appointments of re-employed annuitants in accordance with reference (a). Reference (a) however, may not allow for an extension to an original appointment.
- b. This authority will allow the Department of the Navy (DON) to attract and retain subject matter experts who have unique or specialized skills, or unusual qualifications and to fill positions of critical importance to the Department's mission.
- c. To provide attachment (1) for information.

2. Policy

- a. The Secretary of Navy may appoint an annuitant to an executive-level position (i.e., Senior Executive Service (SES), Scientific and Professional (ST), Senior-Level (SL), and pay band positions above the GS-15 level). This authority is not further delegated.
 - (1) Firm offers of appointment to annuitants to executive level positions and the establishment of effective dates by activities may be made once approval is received from the Secretary of Navy.
- b. For an interim period of time to ensure appointments are administered consistently across the DON and due to the anticipated level of intensity with which this program may be monitored, the authority to appoint annuitants at grades 15 and below (and equivalent) is delegated to Director, Office of Civilian Human Resources (OCHR).
 - (1) Activities requesting approval to appoint an annuitant or extend a re-employed annuitant's current appointment must be addressed to OCHR on a case-by-case basis. Reference (a) however, may not allow for extensions of the original appointment.
 - (2) Firm offers of appointment to annuitants to positions at grades 15 and below (and equivalent) and the establishment of effective dates by activities may be made once approval is received from Director, OCHR.

3. **Reporting**

- a. Requests for approval to appoint an annuitant to an executive-level position may be addressed to the Secretary of the Navy via OCHR, Code 013 using form OCHR 12920/2 (3/2004).
- b. Activities requesting approval to appoint an annuitant or extend a re-employed annuitant's current appointment at grades 15 and below (and equivalent) must complete and submit attachment (2) and supporting documentation through the chain of command to OCHR, Code 011.

4. **Responsibilities**

- a. The SECNAV is responsible for approving appointments to executive-level positions.
 - b. The Director OCHR is responsible for:
 - (1) Monitoring to ensure consistent policy application across the DON.
 - (2) Reviewing requests from activities to appoint annuitants or extend re-employed annuitants' current appointments as grades GS-15 and below (and equivalent).
 - (3) Approving appointments at grades GS-15 and below (and equivalent) based on requests submitted by activities.
 - (4) Reporting on the use of the authority.
 - (5) Providing advice and guidance on the use of the authority.
 - c. The heads of Echelon II commands are responsible for ensuring activities' requests for approval to appoint annuitants are consistent with reference (a).
 - d. Activities are responsible for:
 - (1) Submitting requests for approval to appoint annuitants or extend re-employed annuitants' current appointments through their chain of command to OCHR. Reference (a) however, may not allow for an extension of the original appointment.
 - (2) Ensuring firm offers of appointment and establishing effective dates occur after approval of the request is received from OCHR.
5. **Action**. Commands, activities, and individuals shall take necessary actions to implement the provisions outlined by this authority.

Department of the Navy Q & A on DoD Guidance and Procedures for Reemployment of Annuitants

Reference: DoD Reemployment of Annuitants Guidance and Procedures, attachment to USD(P&R) memorandum of 18 March 2004

Q.1 Paragraph A2 indicates we can set the salary without a reduction in pay or the annuity. Does this mean that if someone retires as a GS-13 step 10, we can't negotiate for their return as a GS-13 step 1? How about a lower grade - GS-12 step 1? The "without a reduction in pay" language is repeated in paragraph 6b.

A 1 Salaries may still be negotiated. Once appointed, annuitants will receive full retirement pensions, as well as the full salary earned for the new position

Q.2. Paragraph B1 states reemployment is subject to three criteria. It is not clear if those reemployed must meet all three criteria, or only one of the three in order to qualify.

A 2 One of the three criteria is needed to reemploy an annuitant.

Q.3. Paragraph 7 talks about filling positions on a time-limited or indefinite basis. Paragraph B1c places a 2087-hour limit (one year full-time or two part-time) to mentor or provide continuity during critical organizational transitions. Does the 2087-hour limit apply to all reemployed annuitants, or only to those hired to mentor or provide continuity during critical organizational transitions? Is the 2087-hour limit consistent with the "indefinite" basis language in Paragraph 7?

A 3 The 2087 time limit only applies when the hiring rationale is to mentor less experienced employees and/or to provide continuity during critical organization transitions. When the 2087 time limit applies, the appointment cannot be extended. Either time-limited appointments or indefinite appointments can be made depending on the rationale

Q.4. Paragraph B2 indicates that retention options need to be offered when the time between retirement and reemployment is less than 90 days. Commands that cannot afford to offer retention options (paying a bonus and salary) will simply wait 90 days after retirement before rehiring annuitants.

A 4 The 90-day time limit applies to annuitants being hired back into the same organization in the same (or substantially similar) position as the position from which the annuitant retired. The command has the option of waiting the 90 days before re-hiring the annuitant into the position as described above. However, additional approvals and certification is required. If the 90 days is not adhered to, then the command must also include in the certification that retention options were offered.

Q.5. In Paragraph A.2, the last sentence reads that there is no retroactive application of the new authority. In Paragraph A.4, the paragraph states that it applies to annuitants employed in positions on or after November 24, 2003. Since it is now well past that date, could you provide guidance on applying this requirement to annuitants who are already employed? What are commands to do with the annuitants hired between 24 Nov 2004 and the present?

This question is answered in two parts as follows

A.5(a). Annuitants hired 24 Nov 2003 to present into positions that support the national emergency should already be receiving a full annuity

**Department of the Navy Q & A on DoD Guidance and Procedures for
Reemployment of Annuitants**

A 5(b) Annuitants hired prior to 24 Nov 2003 continue to serve in their positions in accordance with the provisions of the appointment. However, if the appointment is temporary and activities want to extend the appointment, the original provisions of the appointment must be in accordance with DoD's appointment criteria.

Note DON is awaiting further guidance from CPMS as to what corrective action may be necessary for those annuitants hired on or after 24 November 2003 and prior to 18 March 2004, who were not hired in accordance to the criteria established in DoD's Guidance.

Q.6. When advertising for positions through MP/DE that meet the criteria in paragraph B.1.a, do we need to advertise that reemployed annuitants can be offered a position under this authority without a reduction in salary?

A 6. No

Q.7. Will DoD or DON provide guidance on the criteria to consider for determining a hard-to-fill position? For example, if an employee is a scientist who held the same unique position for the last thirty years, the evidence of high turnover or severe shortage of candidates might be hard to come by. I'd prefer that the commands be able to make that decision on hard to fill.

A 7. No. Guidance for determining a hard-to-fill position is provided in 5 CFR Part 575.

Q.8. In B.1., my interpretation of subparagraphs a, b, and c is that each of them explains a situation where commands can employ annuitants. In paragraph B.1.a., the guidance is concerned with the type of position that can be filled with an annuitant. In subparagraphs B.1.b and B.1.c, the guidance provides two instances where I could employ annuitants in positions that don't meet the criteria in B.1.a. In other words, I could hire an annuitant when the criteria is met in B.1.a., or based on the skills and qualifications of the annuitant in B.1.b., or because the appointment will be one full-time year or less in duration as in B.1.c. If that is not the translation, it means commands can only employ annuitants as mentors in hard-to-fill positions. Hiring of annuitants as mentors has merit regardless of the position.

A.8 Your interpretation is correct. Only one of the three criteria in paragraph B must be met.

Q.9. How are the documentation requirements in paragraph D going to be used? Paragraph D.1 requires copies of the RPA be retained for two years after the appointment is terminated. That can be retrieved from DCPDS. Paragraph D.2 requires that other documentation be attached to the RPA. I'd recommend that DON guidance require the certification required in B.2 be attached to the RPA. If followed, the material concerning all appointments can be retrieved from DCPDS rather than the OPF, which may be on the way to St Louis.

A.9 Paragraphs D.1 and D.2 state documentation must be on the Request for Personnel Action (RPA) and the approval official certification must be attached to the RPA. As the RPA is electronic, the certification would be electronically attached.

**Department of the Navy Q & A on DoD Guidance and Procedures for
Reemployment of Annuitants**

Q. 10. Does guidance/procedure eliminate the ability to fill vacancies with individuals who would be required to be hired as re-employed annuitants under an activity's FECA Return to Work Program?

Background: When an employee is separated from the rolls due to a work-related injury, he/she may be eligible to apply for disability retirement and receive OPM approval. Even though the injured former employee is receiving workers' compensation from the Department of Labor, he/she is considered to be an annuitant by virtue of the fact that a disability retirement was granted by OPM even though payment is not received. The activities we service have active return to work programs and regularly hire these "reemployed annuitants" on permanent appointments. Can employment of these individuals from return to work programs meet the criteria under B.1.a "positions that are critical to the accomplishment of the organization's mission"? It could be argued that we only fill positions that are critical to the organization's mission.

A 10 No Restoration to duty from compensable injury would be followed as addressed in 5 CFR Part 352

Q.11. Given the background information above, can reemployed annuitants be hired under other than temporary or indefinite appointments (permanent)? Again, the activities have hired disability annuitants who have elected to receive workers' compensation in lieu of an annuity as part of their return to work program and also to reduce their workers' compensation costs. Time limited appointments may not meet DOL's criteria of a valid job offer under return to work.

A 11 In referring back to Q10, individuals hired as a result of restoration to duty are not rehired as reemployed annuitants

Q.12. Given that the new provisions apply to new appointments or conversions to new appointments made on or after 24 Nov 03, will annuitants that we may have appointed since that date be entitled to retroactive pay since there should have been no reduction in pay for these employees? Paragraph A.2. indicates that there is no retroaction application of the new authority.

A 12 No See answer 5 above

Q.13. Can a reemployed annuitant not meeting the criteria be hired?

A 13 No All reemployed annuitants must meet one of the three criteria

Q.14. We didn't interpret the DoD guidance to mean that you had to offer retention options prior to every hiring of a reemployed annuitant. We interpret the retention options requirement to apply only if the manager wants to reemploy an individual to substantially the same position from which they retired less than 90 days after they retired. Is this correct?

A 14 Yes However, all reemployed annuitants must still meet one of the three criteria

Q15. If an annuitant is hired under the 9/11 emergency authorization after 23 Nov 2003, will the salary offset waiver still apply?

A15 See answer 5 above



Employment of Annuitant Report

The following information is required for each appointment and or extension made under the provisions of this authority.

| | |
|--|--|
| Point of Contact with phone # | |
| Name of Annuitant | |
| Date of Retirement | |
| Position Title, Pay Plan, Series, Grade held prior to retirement | |
| Position Title, Pay Plan, Series, Grade for new appointment | |
| Position Title, Pay Plan, Series, Grade of position currently held if requesting an extension for an annuitant | |
| RPA # | |
| Major Claimant | |
| Activity Name | |
| UIC | |
| Duty Station | |
| Proposed Effective Date ¹ | |
| Not to Exceed Date | |
| Justification for Employment ² | |
| Statement of Duties | |

¹ If date of retirement and proposed effective date are within 90 days, annotate retention options offered to annuitant IAW DoD's Reemployment of Annuitants Guidance and Procedures, page 3, paragraph B.2.

² Criteria must be IAW DoD's Reemployment of Annuitants Guidance and Procedures, page 3, paragraph B.1. If Hard to Fill is the criteria, justify with a description of the activity's attempts to fill this position using other reasonable internal staffing options and the activity's current and planned vigorous efforts to hire and train a qualified successor. You must show no other staffing option exists.